

2005 ENVIRONMENTAL NEGOTIATIONS COMPETITION
CONFIDENTIAL INSTRUCTIONS FOR GREGORY/MUJERA BLANCA

ROUND 2 (You are the attorney representing Gregory/Magnani/Mujera Blanca in the negotiations)

Gregory is very unhappy that he has to deal with Sullivan and STOP, but he knows that he has little choice. He wants to minimize the damage. Gregory is also motivated by his caustic relationship with Sullivan. Your job as an attorney is to represent Gregory's views, but also to try to limit the role of personalities in the resolution of the case.

1. Inventory and Mapping

The GIS maps are inevitable. The DA has made it clear that if Gregory does not agree to something with STOP on this issue, the DA will require the mapping in her portion of the deal. It may be better to deal with STOP on this, as they have less leverage.

a) Gregory would like to control the process and hire the GIS firm, but will agree to STOP having input, as there are just a few GIS firms.

b) Gregory would like access to the information tightly controlled. He probably has to agree to give it to the county, but will insist on trade secret limits, which could impact what can be shared.

c) Gregory will agree to fund up to 75% of the project, but wants to cap his contribution at no more than \$2.5 million.

Gregory suspects that Sullivan wants this project badly, and thinks he can get Sullivan to kick in some money for it, which amuses Gregory.

2. Attorney's Fees

Gregory does not want to pay any attorneys fees, and you should be hard-nosed on this point until you receive sufficient concessions on other elements. He knows that Sullivan has a good argument for fee recovery under the anti-SLAPP statute, for about \$65,000. The fee claim for the B&P 17200 case is trickier because of the DA's involvement in the case, but probably has some merit. You can go as high as \$175,000, but anything over \$75,000 should come out of the amount that you agree to spend on GIS mapping.

3. Monitoring and Enforcement

Gregory will NOT allow STOP on his site to inspect or tag along with the county. Demands that he fund "inspectors" for STOP are laughable. You can propose that Mujera Blanca will send copies of all filings made with the county to STOP directly (as these are public anyway).

Gregory knows that STOP wants some role in inspections and review. He is willing to acquiesce in STOP's participation in some county proceedings concerning Mujera Blanca, if the county is willing to allow it, and as long as Sullivan personally is excluded from that participation.

You should make an opening proposal on all items.